

ORDINANCE NO. 2-2003

ORDINANCE AMENDING ORDINANCE 4-2000 AND REVISING MADISON COUNTY SUBDIVISION REGULATIONS DATED NOVEMBER 2000

WHEREAS, 76-3-501(1), MCA requires every county, city, and town to adopt and provide for the enforcement and administration of subdivision regulations reasonable providing for the orderly development of their jurisdictional areas; and

WHEREAS, in accordance with state law, Madison County first adopted subdivision regulations prior to July 1, 1974; and

WHEREAS, the Madison County Subdivision Regulations require periodic updating to reflect changes in state law and to address changing local conditions and planning and development issues; and

WHEREAS, the Madison County Planning Board proposed a set of subdivision regulation changes dated October 2002 and held an October 28, 2002 public hearing that was continued on November 25, 2002 and on January 27, 2003; and

WHEREAS, the Board of Madison County Commissioners has reviewed the Planning Board's January 30, 2003 proposal and made further revisions; and

WHEREAS, the Board of Madison County Commissioners will hold the second reading of this Ordinance and conduct a public hearing on April 14, 2003;

NOW, THEREFORE BE IT ORDAINED as follows:

The subdivision regulation revisions attached to this document are a part of this Ordinance and are hereby incorporated into the Madison County Subdivision Regulations dated November 2000. All other portions of the Madison County Subdivision Regulations dated November 2000 remain unchanged.

PASSED AT FIRST READING by the Board of Madison County Commissioners this
__24th__ day of March, 2003.

ATTEST:

APPROVED:

Peggy Kaatz-Stemler
Clerk and Recorder
Madison County

David Schulz, Chairman

C. Ted Coffman

Frank G Nelson
Board of Commissioners, Madison County

This Ordinance shall take effect as of _____ May 15, 2003_____.

PASSED AT SECOND READING by the Board of Madison County Commissioners this
__14th__ day of april, 2003.

ATTEST:

APPROVED:

Peggy Kaatz-Stemler
Clerk and Recorder
Madison County

David Schulz, Chairman

C. Ted Coffman

Frank G Nelson
Board of Commissioners, Madison County

MADISON COUNTY SUBDIVISION REGULATIONS

REVISIONS

April 2003

For More Information, Contact:

Madison County Planning Office
PO Box 278
Virginia City MT 59755
(406) 843.5250

1. Subdivision Road Standards

Amend p. 46, Item 10a. to read:

Subdivision roads shall meet one of two standards, either: (1) Those summarized in Table IV-1 and described below; or (2) those guidelines outlined in the current edition of the American Association of State Highway and Transportation Officials (AASHTO) published Policy on Geometric Design of Highways and Streets. Whenever AASHTO guidelines are used, a registered professional engineer shall provide written verification to Madison County that subdivision roads have been designed in accordance with AASHTO guidelines.

2. Geological Review Requirements

On page 10, add 4k. to read:

See also Section IV-A.21.

On page 62, insert new subsection 21. Current subsections 21 and 22 will become 22 and 23, respectively.

21. Geological Review

For sound regional and local land use planning and development, the complex geologic framework of Madison County requires that County officials, developers, and the general public must have appropriate geoscience information. The most critical information, in general, is that which identifies areas of real or potential hazards, related to the geology, that could endanger the public or become matters of environmental or public health concern.

To provide this information, and before approval of an overall development plan, the local governing body shall require a geological assessment of a property planned for subdivision, to identify areas, if any, that are not suitable for development. Such assessment shall be performed by a Licensed Professional Geologist, a Professional Geologist Certified by the American Institute of Professional Geologists, or by a Professional Engineer, licensed by the State of Montana, with a demonstrated proficiency in geological engineering and engineering geology. A written report, signed and with an appropriate professional seal, shall be furnished to Madison County with the overall development plan. The report shall cover the entire property included in the overall development plan. The report shall describe geological conditions, with maps that clearly show areas of geology-related hazards, and shall discuss the risks associated with geology-related hazards in terms easily understood by non-geologists. If the report identifies geology-related concerns, the local governing body may require that site-specific geological and geotechnical investigations are needed before actual construction.

The report shall be made available to lot or unit purchasers, so that they clearly understand the potential risks involved, and the possible need for geotechnical advice before and during construction. A statement that the report is available shall appear on the face of any final plat covered by the overall development plan.

Approved overall development plans shall demonstrate that future developments will be concentrated in areas of low to moderate risk.

The steps outlined above may also be required of a proposed subdivision which is not covered by an overall development plan. The following procedures will be used to determine the need for a geological assessment:

- a. As a part of the pre-application process, the County Planner will review the Madison County Soil Survey and USGS/MT Bureau of Mines and Geology maps for physical characteristics that suggest limitations for construction. Planner will use this information to determine whether or not a geological assessment is required as a part of the subdivision application. Planner may also use information gathered during an on-site inspection.
- b. Where a geological assessment is not submitted with the subdivision application, the Planning board may recommend, and the local governing body may require it as a condition of preliminary plat or summary plat approval. This determination will be guided by information collected during the process of subdivision application review.

Add Definitions in Appendix A, as follows:

CERTIFIED PROFESSIONAL GEOLOGIST: A geologist whose educational background, professional practice and experience, and ethical standards have been evaluated by a peer group, and are Certified as meeting the requirements of the American Institute of Professional Geologists.

LICENSED PROFESSIONAL GEOLOGIST: A Professional Geologist registered by a state licensing board. Montana does not require that geologists be licensed, but many states do require licensing and require that an applicant for licensing pass an appropriate written examination and show evidence of substantial professional education and experience.

LICENSED (OR REGISTERED) PROFESSIONAL ENGINEER: A Professional Engineer registered by the Montana State licensing board for engineers. An applicant for licensing must pass an appropriate written examination and show evidence of substantial professional education and experience. In problems involving geologic hazards, the engineer must have broad experience and education in geological engineering and engineering geology.

ENGINEERING GEOLOGY: A specialty of geology in which a knowledge of geology is necessary and relevant in the operation, design, construction, and maintenance of engineering projects.

GEOLOGICAL ENGINEERING: A specialty of engineering in which Earth materials are the primary materials involved in the planning, design, construction, and maintenance of an engineering project.

GEOTECHNICS: The application of scientific methods and engineering principles to the acquisition, interpretation, and use of knowledge of materials of the Earth's crust for the solution of engineering problems.

3. Evasion Review Board

Correct the first sentence of the definition (Appendix A), to read:

A Board which acts under the Montana subdivision and Platting Act to approve, conditionally approved, or deny subdivision exemption requests.

4. Lack of Planning Board Quorum

Add a third sentence to Section I-G.1., page 4, to read:

In the event a lack of a quorum prevents the planning board from taking action on a subdivision or subdivision-related proposal, the local governing body may review and act on the proposal.

5. Subdivisions located in More than One County

Add a third policy under Section I-F, in the middle of page 4, to read:

3. In accordance with 7-11-102, MCA, Madison County may enter into an interlocal agreement with each of its neighboring counties, to provide a coordinated process of application review in cases where a proposed subdivision lies partly within Madison County and partly within a neighboring county. Under this provision, each county has jurisdiction over only the lands within its border.

The terms of any cooperative subdivision review agreement with a neighboring county shall include the following: (a) Ability to designate a "lead" county, based on where the majority of the land is proposed to be subdivided, and/or where the majority of development is proposed to be created; (b) duties of the "lead" county and "non-lead" county; and (c) possibility of waving or reducing the application review fees in the "non-lead" county.

ORDINANCE NO. 3 - 2003

ORDINANCE AMENDING ORDINANCE 4-2000 AND REVISING MADISON COUNTY SUBDIVISION REGULATIONS DATED NOVEMBER 2000

WHEREAS, 76-3-501(1), MCA requires every county, city, and town to adopt and provide for the enforcement and administration of subdivision regulations reasonable providing for the orderly development of their jurisdictional areas; and

WHEREAS, in accordance with state law, Madison County first adopted subdivision regulations prior to July 1, 1974; and

WHEREAS, the Madison County Subdivision Regulations require periodic updated to reflect changes in state law and to address changing local conditions and planning and development issues; and

WHEREAS, pursuant to 76-3-201 and 76-3-207, MCA, the 2003 Montana Legislature authorized local governments to levy reasonable subdivision exemption review fees, not to exceed \$200 per request; and

WHEREAS, the Madison County Evasion Review Board has proposed the institution of a \$75 fee for the review of each subdivision exemption request (family conveyance, boundary adjustment, agricultural exemption, mortgage exemption); and

WHEREAS, the Madison County Planning Board held an August 25, 2003 public hearing and subsequently recommended that the attached fee proposal dated 8/03 be adopted; and

WHEREAS, the Board of Madison County Commissioners has reviewed the Evasion Review Board's 8/03 proposal.

NOW, THEREFORE BE IT ORDAINED as follows:

The subdivision regulation revision attached to this document is a part of this Ordinance and is hereby incorporated into the Madison County Subdivision Regulations dated November 2000. All other portions of the Madison County Subdivision Regulations dated November 2000, plus the amendments contained in Ordinance 2-2003, remain unchanged.

PASSED AT FIRST READING by the Board of Madison County Commissioners this 2nd day of September 2003.

APPENDIX I. FEE SCHEDULE – REVISION, 8/03

Pursuant to 76-3-602, MCA, the subdivider shall pay the following non-refundable fees:

1. **Subdivision Application Review** (Fee goes to the Madison County Planning Department)

Number of Lots in Proposed Subdivision [Note: One RV space or one condominium unit equates to one lot.]	Preliminary Plat or Plan [Note: Fee applies also to Summary Plats or Plans, and to Amended Plats where substantial changes are proposed.]	Final Plat or Plan [Note: Fee does not apply to Summary Plats or Plans.]	Total Subdivision Application Review Fee
1 – 2	\$750	\$100	\$850
3 or more	\$1200 + \$50 for each lot over 3	\$200 + \$50 for each lot over 3, up to 50 lots; + \$20 for each lot beyond 50 lots.	Examples: \$1400 for 3 lots \$1700 for 6 lots \$6100 for 50 lots \$9600 for 100 lots

2. **Fire Review Fee** (Fee goes to the reviewing agency or the County): \$50 for the first lot, \$10 for each additional lot, plus mileage (at State rate per mile).

3. **Variance Application** (Fee goes to the Madison County Planning Department, and each requested variance requires a separate fee):

\$100 if variance application is submitted with subdivision application.

\$200 if variance application is submitted after preliminary plat approval has been granted.

4. **Noxious Weed Management Plan** (Fee goes to the Madison County Weed Department):

\$50 plus mileage (at State rate per mile) for proposed subdivisions of five or fewer lots.

\$50 plus mileage (at State rate per mile) plus \$5 per lot for proposed subdivisions of six or more lots.

4. **Sanitation Review Fee where proposed lots are 20 or more acres** (Fee goes to the Madison County Sanitarians' Department)

\$50 per lot plus mileage (at State rate per mile).

Pursuant to 76-3-201 and 76-3-207, MCA, a landowner submitting a subdivision exemption request shall pay a review fee of \$75 (Fees are equally split among the Madison County Clerk & Recorder's Office, Sanitarian's Office, and Planning Office).

ORDINANCE NO. 1 - 2005

ORDINANCE AMENDING ORDINANCE 4-2000 AND REVISING MADISON COUNTY SUBDIVISION REGULATIONS DATED NOVEMBER 2000

WHEREAS, 76-3-501(1) MCA requires every county, city, and town to adopt and provide for the enforcement and administration of subdivision regulations reasonable providing for the orderly development of their jurisdictional areas; and

WHEREAS, in accordance with state law, Madison County first adopted subdivision regulations prior to July 1, 1974; and

WHEREAS, the Madison County Subdivision Regulations require periodic updating to reflect changes in state law and to address changing local conditions and planning and development issues; and

WHEREAS, the Madison County Commissioners have identified a need to provide greater flexibility in the amended plat review process, as allowed by 76-3-207(2)(a), MCA; and

WHEREAS, the Madison County Planning Board held a May 31, 2005 public hearing on a proposed revision of the Madison County Subdivision Regulations and recommended that the attached language be adopted; and

WHEREAS, the Madison County Board of Commissioners have scheduled a public hearing for 2:00 p.m. on June 27, 2005, to consider the proposed revision.

NOW, THEREFORE BE IT ORDAINED as follows:

The Subdivision Regulation revision attached to this document is a part of this Ordinance and is hereby incorporated into the Madison County Subdivision Regulations dated November 2000. All other portions of the Madison County Subdivision Regulations dated November 2000, plus the amendments contained in Ordinance 2-2003 and Ordinance 3-2003, remain unchanged.

PASSED AT FIRST READING by the Madison County Board of County Commissioners this _____ day of June, 2005.

Amended Plat Review (Page 81, item 2.)

The governing body shall review and approve all other amended plats, pursuant to 76-3-207(2)(a), MCA, as follows:

- (a) A proposal that increases the number of lots, or redesigns or rearranges six (6) or more lots within a platted subdivision, where such change would result in a higher development density, shall undergo subdivision review in accordance with Chapter II of these regulations and the fee schedule outlined in Appendix I;
 - (b) A proposal for other types of changes to a filed final plat or plan (e.g., increased number of lots or redesign or rearrangement of six (6) or more lots but no increase in development density, or changes to land uses, building setback requirements or road and utility easements) will be reviewed by the governing body, which has the discretion to determine whether the proposed changes constitute a material alteration to the original plat or plan. If the changes constitute a material alteration, the governing body may require the amended plat request to undergo subdivision review in accordance with Chapter II of these regulations and the fee schedule outline in Appendix I.
3. All amended plats must be filed with the clerk and recorder.

RESOLUTION NO. 15-2006
A RESOLUTION TO ALLOW LIMITATION ON
NUMBER OF SUBDIVISION APPLICATIONS

WHEREAS, in accordance with 7-5-2101, MCA, "The board of county commissioners has jurisdiction and power, under such limitations and restrictions as are prescribed by law, to represent the county and have the care of the county property and the management of the business and concerns of the county in all cases where no other provision is made by law"; and

WHEREAS, consistent with 76-3-102, MCA, the Madison County Planning Board and Madison County Commissioners work to promote the public health, safety, and general welfare by regulating the subdivision of land; and

WHEREAS, the Madison County Planning Office, Madison County Planning Board, and Madison County Commissioners are committed to the timely but accurate and thorough review of subdivision applications; and

WHEREAS, Madison County is experiencing a period of population growth, increased building activity, increased demand for planning support, and an increase in the number of subdivision applications; and

WHEREAS, the possibility exists that the Madison County Planning Office may receive more subdivision applications than it can effectively handle in any one month;

NOW, THEREFORE BE IT RESOLVED that the Board of Madison County Commissioners hereby authorizes the County Planning Director to use his or her discretion in limiting the number of subdivision applications that will be accepted for review in any one month.

BE IT FURTHER RESOLVED, that the Board of Madison County Commissioners hereby instructs the County Planning Director to develop a procedure by which subdivision applicants will be notified of the possibility that, for reasons of heavy workload in the Planning Office, their subdivision application may not be accepted for review immediately, but will be reviewed in the order received.

PASSED AND ADOPTED by the Board of Madison County Commissioners this 10th day of April, 2006.